



112

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-26601-2025 (O&M)

Date of decision : 21.05.2025

Ajay Kochhar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Sapna Seth, Advocate,
for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab with
Ms. Manjot Kaur, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'), for grant of bail pending trial to the petitioner in FIR No.26 dated 01.03.2025 (P-2), under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Sections 111, 223 of the Bharatiya Nyaya Sanhita, 2023, registered at Police Station Sadar Nakodar, District Jalandhar (Rural).

2. Reply by way of affidavit dated 21.05.2025 of Mr. Sukhpal Singh, PPS, Deputy Superintendent of Police, Sub Division Nakodar, District Jalandhar (Rural) has been filed, which is taken on record. Copy supplied to the other side. Registry to tag the same at appropriate place.



3. Allegations are that petitioner used to supply intoxicant tablets and capsules to co-accused-Ranjit Singh and Pregabalin capsules were recovered from him.

4. Contends that the petitioner is in custody since 07.03.2025; and he has been falsely implicated in the present case. Further contends that petitioner is running Chemist Shop with a valid license issued by the competent authority. Moreover, Pregabalin capsules recovered from him is not covered under the NDPS Act; hence, petitioner deserves the concession of bail pending trial.

5. *Per contra*, learned State counsel although acknowledged that Pregabalin capsules recovered from petitioner is not covered under the NDPS Act, but at the same time, he vehemently opposed the prayer on the premise that disclosure of co-accused-Ranjit Singh along with his bank entries clearly indicate the complicity of petitioner regarding recovery of alleged Alprazolam and Tramadol tablets of commercial quantity.

6. Heard both sides and perused the paper-book.

7. Concededly, petitioner was not named in the FIR; rather nominated on the basis of disclosure by co-accused-Ranjit Singh. Of course, learned State counsel acknowledged that Pregabalin capsules are not covered under the NDPS Act, but taking into consideration the public interest, order dated 23.01.2025 was issued by Deputy Commissioner, Jalandhar, while exercising power under Section 163 of BNSS, thereby banning the sale/purchase of Pregabalin capsules in his jurisdiction. At the same time, disclosure made by co-accused-Ranjit



Singh, coupled with series of entries reflected in the HDFC Bank of petitioner specifically indicate his complicity with the main accused from whom commercial quantity of contraband has been recovered. For reference, the details of bank entries shown by learned State counsel are as under:-

Date	Narration	Chq./Ref.No.	Value date	Withdrawal Amount	Deposit Amount	Closing balance
06.10.24	UPI-Ranjit Singh-8264911858@YBL-UBIN0565059-464684134950-Payment	0000464684134950	06.10.24	4,000.00	0.00	356194.50
19.10. 24	UPI-650502010010837-8264911858@ YBL-330825353836-Payment from phonpe	0000330825353836	19.10.24	0.00	14,000.00	520778.34
2.11.24	UPI-650502010010837-8264911858@ YBL-008055961205-payment from phonepe	0000008055961205	2.11.24	0.00	16,500.00	195799.15
26.11.24	UPI-650502010010837-8264911858 @ YBL-128133152183-Payment from phonpe	0000128133152183	26.11.24	0.00	22,000.00	54,966.81
6.01.25	UPI-650502010010837-8264911858@ YBL-574115588733-Payment from phonepe	0000574115588733	6.01.25	0.00	39,600.00	170358.35
15.01.25	UPI-Swapandeeep Singh-Swapandeeep 12@ OKSBI-SBIN0003278-063103546597-Payment from phonepe	0000063103546597	15.01.25	28,000.00	0.00	186317.53



27.01.25	UPI- 650502010010837- 8264911858@ YBL- 398934784213- Payment from phonepe	0000398934784213	27.01.25	0.00	45,000.00	56104.61
05.02.25	UPI- 650502010010837- 8264911858@ YBL- 277484103552- Payment from phonpe	0000277484103552	5.02.25	0.00	14,000.00	327969.21
7.02.25	UPI- 650502010010837- 8264911858 @ YBL- 359092547562- Payment from phonepe	0000359092547562	7.02.25	0.00	20,000.00	181891.21
18.02.25	UPI- 650502010010837- 8264911858@ YBL- 002616025749- payment from phonepe	0000002616025749	18.02.25	0.00	27,500.00	1048565.75
20.02.25	UPI- 650502010010837- 8264911858@ YBL- 597240284490- Payment from phonpe	0000597240284490	20.02.25	0.00	38,000.00	105029.75

8. Before proceeding further, it is relevant to extract the provisions of Section 37 of the NDPS Act and the same read as under:-

Section 37 of the NDPS Act – Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section



27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

9. Aforesaid Section, is in the nature of non-obstante clause and which, *inter alia*, lays down that no person accused of an offence of commercial quantity, shall be released on bail, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

10. Both the above conditions are cumulative and not alternative. The law is well settled that requirement of satisfaction in terms of Section 37 (1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.



11. In view of the above, this Court is not inclined to record the twin test satisfaction in favour of the petitioner as per Section 37 of the NDPS Act.

12. Also noteworthy that the menace of drugs has completely ruined the State of Punjab and which needs to be dealt with sternly. Hon'ble the Supreme Court in ***Parwinder Singh @ Parminder Kumar @ Vicky Vs. State of Punjab***, SLP (Crl.) 12601-2023, decided on 14.12.2023, has held as under:-

“5. Having heard learned counsel for the parties, we are of the considered view that the parameters of granting bail in a case under special statutes like NDPS Act may not be liberally construed in the instant case. We say so taking notice of the fact that the State of Punjab is reeling under the grip of drug menace. There are several drug lords whose roots are identifiable in the State of Punjab, and who operate in the cross-border drug racketing and organized trafficking of narcotic drugs and psychotropic substances. It is a matter of common knowledge that huge cache of illicit drugs is smuggled across the border. Some local Pharmaceutical Industries, State police officials and other affluent people have been suspected to be involved, at occasions, in international drug trafficking. The drug addiction has posed a serious threat to the once vibrant state of Punjab. The Courts, therefore, ought to be highly circumspect while granting bail, especially to a repeat offender.”



13. In view of the above, without going any further into the merits of the controversy, this Court is not inclined to entertain the petition “at this stage”.

14. Consequently, present petition is dismissed.

15. Needless to say that above observations be not construed as an expression of opinion on the merits of the case, in any manner.

Pending application(s), if any, shall also stand disposed off.

21.05.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No